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funds should not be diverted to paying damages. *Parks* v. *Northwestern University*, 218 Ill. 381. This has been repudiated in England. *Mersey Docks Trustees* v. *Gibbs*, L. R. 1 H. L. 93; *Gilbert* v. *Trinity House*, 17 Q. B. D. 795. And it is not logically tenable in those American jurisdictions which allow recovery where there has been negligence in selecting incompetent servants. See *Plant System Relief & Hospital Department* v. *Dickerson*, 118 Ga. 647. A second view, that in the case of charities none of the reasons of public policy underlying the rule of *respondeat superior* are applicable, is supported by reasoning which is not unassailable. *Hearns* v. *Waterbury Hospital*, 66 Conn. 98. A third theory, illustrated by the principal case, and now the established doctrine in New York, that a recipient of charity cannot invoke the rule because he has assumed the risk, but that an outsider may, is of comparatively recent growth. *Powers* v. *Massachusetts Homœopathic Hospital*, 101 Fed. 896; *ibid.*, 109 Fed. 294; *Bruce* v. *Central M. E. Church*, 147 Mich. 230; *Wallace* v. *Casey Co.*, 132 N. Y. App. Div. 35. The reasons against such a theory seem as strong as those against the fellow-servant doctrine. Moreover it establishes as a presumption of law what is at best a doubtful question of fact.

AGENCY — UNDISCLOSED PRINCIPAL'S RIGHTS AND LIABILITIES WITH RESPECT TO THIRD PERSONS — VIOLATION OF INSTRUCTIONS. — The plaintiff sold whisky to the manager of the defendants' hotel, dealing with the manager as owner. The defendants had instructed the manager to buy whisky from another firm exclusively. On discovering that the defendants were the real principals, suit was brought against them for the price of the whisky. *Held*, that the plaintiffs can recover. *Kinahan & Co., Ltd.* v. *Parry*, [1910] 2 K. B. 389.

For a discussion of the principles involved, see 23 HARV. L REV. 599.

CARRIERS — BAGGAGE — EXCLUSION FROM STREET CAR FOR CARRYING ARTICLE NOT INTENDED FOR PERSONAL USE. — The plaintiff attempted to board the defendant's car while carrying five cents' worth of ice, which he was taking to a sick man. There was a regulation excluding "bulky and dangerous articles" from the cars, but the jury found that the ice was carefully wrapped and not leaking. The plaintiff was, however, excluded, for which this action was brought. *Held*, that the court cannot say as a matter of law that the ice was not personal baggage. *McIntosh* v. *Augusta & Aiken R. Co.*, 69 S. E. 159 (S. C.).

Articles carried by a passenger for the use of another person are not baggage. *Metz* v. *California Southern R. Co.*, 85 Cal. 329. And this is a question of law. *Connolly* v. *Warren*, 106 Mass. 146. The case thus seems wrong on the ground of its decision. If, however, a company does by usage permit passengers to carry small packages of merchandise, a man may not be excluded for so doing. *Runyan* v. *Central R. Co. of New Jersey*, 65 N. J. L. 228. And it would seem that, in the case of street cars, a court might well judicially recognize the existence of such a usage, so general as to have become a part of the carrier's undertaking, in the absence of an express regulation to the contrary.

CARRIERS — DUTY TO ACCEPT AND CARRY PASSENGERS — RIGHT TO COMPEL CAR TO RETURN TO DESIGNATED STOPPING PLACE. — The plaintiff signalled the defendant's car at one of its regular stops, but the car ran by seventy-five yards, and the motorman refused to bring it back to the stop. The plaintiff refused to walk to the car, though allowed time to do so, and brought this action for the damages suffered by being left behind. *Held*, that he may recover. *Christian* v. *Augusta & Aiken R. Co.*, 69 S. E. 17 (S. C.).

It has been held that a regulation of an electric railway company not to return to take up a passenger may, under circumstances stronger indeed than those in the principal case, be unreasonable. *Jackson Electric Railway, Light,*

& *Power Co.* v. *Lowry*, 79 Miss. 431. And a railroad is liable for the damage resulting from its refusal, without valid excuse, to carry a passenger back, after wrongfully over-shooting his station. *Samuels* v. *Richmond & Danville R. Co.*, 35 S. C. 493; *Fordyce* v. *Dillingham*, 23 S. W. 550 (Tex.). The company's legal duty is undoubtedly to take up passengers at its regularly designated stops, and if it does not substantially comply with that duty, it seems that only important considerations of public convenience should excuse a refusal to bring the car back. Such considerations would obviously arise where cars run frequently through crowded streets, and going backward would materially add to danger of collisions.

CHAMPERTY AND MAINTENANCE — ATTORNEY PAID OUT OF FRUITS OF LITIGATION. — An attorney agreed to defend a pending suit in return for a portion of the property in litigation. *Held*, that the agreement is not illegal. *Van Gieson* v. *Magoon*, 20 Haw. 146. See NOTES, p. 228.

CONFLICT OF LAWS — PERSONAL JURISDICTION — AGREEMENT TO MORTGAGE FOREIGN LAND. — The defendant company agreed to purchase the plaintiff company's mortgage debenture bonds constituting a floating charge on property in Northern and Southern Rhodesia and in England. The plaintiff contracted to give the defendant an exclusive license, renewable every five years in perpetuity, to work the plaintiff's diamondiferous land. This agreement was made in London, where interest and principal were payable. Northern Rhodesia is under English, Southern Rhodesia under Roman-Dutch law. The bonds were issued and later paid, but were never registered, as required by the Rhodesian law. Subsequently the plaintiff brought this bill for a declaration upon the validity of the license agreement. *Held*, that the license clause is invalid. *British South Africa Co.* v. *De Beers Consolidated Mines Limited*, 103 L. T. Rep. 4 (Eng., Ct. App., July 5, 1910).

The English rule is that the validity of a contract is determined by the law the parties intend shall govern. *Hamlyn & Co.* v. *Talisker Distillery*, [1894] A. C. 202. But see 23 HARV. L. REV. 1–11, 79–103, 194–208, and 260–292. All courts, however, hold that the creation of interests in land is governed by the *lex situs*. *Kerr* v. *Moon*, 9 Wheat. (U. S.) 565. See 20 HARV. L. REV. 382. Hence it was contended in the principal case that so far as the contract related to land in Southern Rhodesia the Roman-Dutch law applied, and that under this law the agreement to lease, given to secure the bonds, would continue in force after the bonds were paid. But the court, relying upon earlier cases, considered that in its exercise of jurisdiction *in personam* it could enforce the equities of the English mortgage law. *Ex parte Pollard*, Mont. & C. 239; *Lord Cranstown* v. *Johnston*, 3 Ves. Jr. 170. Under that law such a clog on the equity of redemption is not allowed. *Noakes & Co.* v. *Rice*, [1902] A. C. 24. The cases relied upon by the court would abundantly warrant the present decree in a case involving an actual interest in land in Southern Rhodesia. See *Ex parte Pollard*, *supra*, 251. But the same result would seem possible without their aid. Through lack of registration no interest or security in Rhodesian land was obtained. See 2 NATHAN, COMMON LAW OF SOUTH AFRICA, 924. Hence the *lex situs* does not enter and only English law, with reference to which the parties contracted, can apply.

CONFLICT OF LAWS — PERSONAL JURISDICTION — JURISDICTION TO ORDER PAYMENT OF ALIMONY. — Suit was brought for a divorce and alimony. The defendant appeared and answered. A divorce was granted, and by agreement of counsel the court decreed that such alimony should be paid as it should thereafter direct, upon the application of any of the parties in interest. The defendant left the jurisdiction, and the court, upon notice being served to the